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RTO INVESTMENTS, INC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

HOLLY MARIE WOOD, an individual,
Plaintiff.

VS.

CARL'S JR., operated and owned by BTO INVESTMENTS, a Delaware corporation; S.L. INVESTMENTS, a Nevada corporation; CKE RESTAURANTS, INC., a Delaware corporation; CARL'S JR. RESTAURANTS, LLC, a foreign limited liability company; CARL KARCHER ENTERPRISES, INC., a foreign corporation; CKE RESTAURANTS HOLDINGS, INC., a foreign corporation; RUCEY MOLINA CRUZ, an individual; DOES 1 through 10, inclusive; ROE CORPORATIONS/ENTITIES 1 through 10, inclusive;

22 | Defendants.

CASE NO. 2-20-cv-02329-APG-BNW

**AMENDED STIPULATED DISCOVERY
PLAN AND SCHEDULING ORDER
(SECOND REQUEST)**

***SPECIAL SCHEDULING REVIEW
REQUESTED***

25 Pursuant to Federal Rule of Civil Procedure ("FRCP") 26 and Local Rule 26-1, the
26 parties in this action submit the following Amended Stipulated Discovery Plan and
27 Scheduling Order (Second Request) subject to the Court's review and approval:

28 | //

1 I.

2 **INITIAL MATTERS**

3 **A. Meeting Between The Parties' Counsel**

4 Pursuant to FRCP 26(f), the undersigned parties, by and through their respective
5 counsel, conferred on June 10, 2021. Paul S. Padda, Esq. represented Plaintiff Holly
6 Marie Wood; Bruce Young, Esq. represented Defendant BTO Investments, Inc.; Karie N.
7 Wilson, Esq. represented Defendants Carl's Jr. Restaurants, LLC, CKE Restaurants
8 Holdings, Inc., CKE Restaurants, Inc., and Carl Karcher Enterprises, Inc. (hereinafter, the
9 "CKE Defendants"); and David T. Gluth II, Esq. represented S.L. Investments. S.L.
10 Investments filed an Answer to Plaintiff's Complaint on March 25, 2021, after the Court
11 entered its original Scheduling Order (ECF No. 30) on February 25, 2021.

12 **B. The Parties' Position On Alternative Dispute Resolution**

13 The parties hereby certify that they communicated regarding the possibility of
14 resolution of this case through means of alternative dispute resolution (i.e. arbitration,
15 mediation, early neutral evaluation). An Early Neutral Evaluation session was held in this
16 case on March 10, 2021 (ECF No. 36) but was unsuccessful. Mediation was initially set
17 for September 27, 2021, but is in the process of being rescheduled.

18 **C. The Parties' Position On Trial By United States Magistrate Judge And/Or Short
19 Trial Program**

20 Under FRCP 73, a United States Magistrate Judge may "conduct a civil action or
21 proceedings" if "all parties consent." The parties, by and through their respective counsel,
22 are in agreement that this case should proceed on the normal track with the currently
23 assigned United States District Judge presiding.

24 II.

25 **DISCOVERY COMPLETED**

26 The parties have conducted the following discovery to date:

27 1. Plaintiff served her Initial Disclosures on March 3, 2021;
28 2. Defendant BTO Investments, Inc. served its Initial Disclosures on March 5,

1 2021;

- 2 3. CKE Defendants served their Initial Disclosures on March 3, 2021;
- 3 4. Defendant BTO Investments, Inc. propounded its First Set of Interrogatories
- 4 and First Set of Requests for Production to Plaintiff on March 25, 2021;
- 5 5. Plaintiff served her First Supplement to Initial Disclosures on April 26, 2021;
- 6 6. Plaintiff served her Responses to Defendant BTO Investments, Inc.'s First
- 7 Set of Interrogatories and First Set of Requests for Production on April 26, 2021;
- 8 7. Plaintiff propounded her First Set of Interrogatories and First Set of
- 9 Requests for Production to Defendant BTO Investments, Inc. on April 27, 2021;
- 10 8. CKE Defendants served their First Supplement to Initial Disclosures on April
- 11 30, 2021;
- 12 9. CKE Defendants propounded their First Set of Interrogatories and First Set
- 13 of Requests for Production to Plaintiff on June 10, 2021;
- 14 10. Defendant S.L. Investments served Initial Disclosures on June 19, 2021;
- 15 11. Defendant BTO Investments, Inc. served its First Supplement to Initial
- 16 Disclosures on June 25, 2021;
- 17 12. Defendant BTO Investments, Inc. served its Responses to Plaintiff's First
- 18 Set of Interrogatories and First Set of Requests for Production on June 25, 2021;
- 19 13. Plaintiff served her Responses to the CKE Defendants' First Set of
- 20 Interrogatories and First Set of Requests for Production on July 12, 2021;
- 21 14. Plaintiff propounded her Second Set of Interrogatories to Defendant BTO
- 22 Investments, Inc. on July 28, 2021;
- 23 15. Plaintiff propounded her First Set of Requests for Production to Defendant
- 24 S.L. Investments on July 28, 2021;
- 25 16. Defendant S.L. Investments propounded its First Set of Requests for
- 26 Admissions to Defendant BTO Investments, Inc. on August 6, 2021; and
- 27 17. Defendant BTO Investments, Inc. served its Responses to Plaintiff's Second
- 28 Set of Interrogatories on August 27, 2021.

AREAS OF DISCOVERY

The undersigned parties agree that the areas of discovery should include, but not be limited to, all claims and defenses permitted by the Federal Rules of Civil Procedure, including issues of liability and damages.

IV.

DISCOVERY DEADLINES

8 Local Rule 26-1(b)(1) provides that “unless otherwise ordered, discovery periods
9 longer than one hundred and eighty (180) days from the date the first defendant answers
10 or appears will require special scheduling review.” On February 23, 2021, the Court
11 granted the parties’ Proposed Discovery Plan and Scheduling Order, approving the
12 parties’ request for a 240-day discovery period, as reasonable and necessary, in light of
13 the impact of the COVID-19 pandemic. (Doc. 30). On June 25, 2021, the Court granted
14 the parties’ Amended Plan and Scheduling Order, approving the parties’ request that an
15 additional 90 days be added to the discovery period, for a total of 330 days, based on
16 certain extenuating circumstances, including the unsuccessful Early Neutral Evaluation
17 on March 10, 2021 leading to the entry of Defendant S.L. Investments into the suit, the
18 withdrawal of CKE Defendants’ former attorneys and the appearance of their current
19 attorneys, the pending service of Defendant Rucey Molina Cruz, written discovery
20 extensions, the continuation of Plaintiff’s deposition, the anticipated need for the
21 depositions of additional fact witnesses and Plaintiff’s treating physicians, and inadvertent
22 errors in the calculation of the original Order. (Doc. 48).

23 The parties now propose that an **additional 60 days** be added to the 330-day
24 discovery period, for a total of **390 days**. The parties have been diligently working to
25 complete discovery in accordance with the current deadlines. However, certain factors
26 have necessitated an extension of the current deadlines.

27 First, the parties have agreed to mediate the case. Mediation was initially set for
28 September 27, 2021, but is in the process of being rescheduled. This extension will

1 afford the parties additional time to consider opportunities for early settlement without
 2 incurring unnecessary discovery costs.

3 Second, Defendant BTO Investment Inc. has a new handling attorney. Defendant
 4 BTO Investments, Inc. is represented by the law firm Lewis Brisbois Bisgaard & Smith,
 5 LLP. The original handling attorney, Bruce C. Young, Esq., left the firm. The case was
 6 internally reassigned to Josh Cole Aicklen and Jesselyn V. De Luna.

7 Third, Plaintiff has not yet been able to effectuate service of the Summons and
 8 Complaint on Defendant Rucey Molina Cruz. Plaintiff therefore sought and was granted
 9 additional time to effectuate service. The Court's Order dated May 5, 2021, extended
 10 service upon Defendant Rucey Molina Cruz "up to and including 180 days from [the]
 11 Order," or until November 1, 2021. (Doc. 44).

12 Fourth, the parties also anticipate the need for the deposition of additional fact
 13 witnesses, including former employees of the restaurant where Plaintiff was previously
 14 employed. Some of these witnesses may be difficult to locate as several were teenagers
 15 or young adults who stopped working for Defendant BTO in 2018, nearly three years ago.
 16 In addition, Plaintiff is seeking emotional distress damages and damages for alleged
 17 future medical care and the parties therefore anticipate the need for depositions of
 18 Plaintiff's treating physicians including, but not limited to, physicians at UMC Trauma, Dr.
 19 Norton Roitman, Dr. Ruth Ramirez, and Dr. Ron Zedek. Coordinating these depositions
 20 and accommodating the work and vacation schedules for the witnesses and the attorneys
 21 involved is expected to necessitate additional discovery time.

22 For all these reasons, the parties respectfully request that the applicable discovery
 23 deadlines be extended an additional 60 days. Upon a showing of good cause, this Court
 24 is authorized to modify the discovery schedule. *See*, FRCP 6(b)(1)(A); LR 26-4. "The
 25 district court may modify the pretrial schedule if it cannot reasonably be met despite the
 26 diligence of the party seeking the extension." *Johnson v. Mammoth Recreations, Inc.*,
 27 975 F.2d 604, 609 (9th Cir. 1992). Based upon the date the first Defendant answered or
 28 otherwise appeared (December 23, 2020) (Doc. 1), the undersigned parties hereby

1 propose the following discovery schedule pursuant to the LR 26-1 (April 17, 2020):

2 Current Discovery Plan & Scheduling 3 Order		4 Proposed Amended Discovery Plan 5 & Scheduling Order
6 Event	7 Current Deadline	8 Proposed Deadline
9 Discovery 10 Cut-Off	11 November 18, 2021 (Thursday)	12 January 17, 2022 (Monday) 13 [390 Days from date first defendant 14 answers or appears - LR 26-1 15 (b)(1)]
16 Amending 17 Pleadings 18 Adding 19 Parties	20 August 20, 2021 (Friday)	21 October 19, 2021 (Tuesday) 22 [90 Days Before Close of Discovery 23 - LR 26-1(b)(2)]
24 Initial Expert 25 Disclosures	26 September 20, 2021 (Monday)	27 November 18, 2021 (Thursday) 28 [60 Days Before Close of Discovery - LR 26-1(b)(3)]
29 Rebuttal 30 Expert 31 Disclosures	32 October 20, 2021 (Wednesday)	33 December 20, 2021 (Monday) 34 [30 days after the Initial Disclosure 35 of Experts - LR 26-1(b)(3) is a 36 Saturday, 12/18/21]
37 Dispositive 38 Motions	39 December 20, 2021 (Monday)	40 February 16, 2022 (Wednesday) 41 [30 Days After Close of Discovery - 42 LR 26-1(b)(4)]
43 Pre-Trial 44 Order	45 January 19, 2022	46 March 18, 2022 47 [30 Days After the Dispositive 48 Motion Deadline - LR 26-1(b)(5)]

With respect to the Pre-Trial Order, if dispositive motions are filed, the deadline for filing a Joint Pre-Trial Order will be suspended until 30-days after a decision on the dispositive motion(s) is/are rendered or until further Court notice. *See Local Rule 26-1 (b)(5).*

V.

DISCOVERY DEADLINES

7 If the Court has questions regarding the dates proposed by the parties, the parties
8 request an opportunity for a conference with the Court before entry of this proposed
9 amended Scheduling Order. If the Court does not have questions, the parties do not
10 request a conference with the Court. All written discovery previously served with
11 responses that are otherwise outstanding shall not be affected by any subsequent
12 amended Order, unless the parties agree otherwise in writing.

vi

EXTENSIONS OR MODIFICATIONS OF DISCOVERY DATES

15 This Court's Local Rule 26-3 governs modifications or extensions of this Discovery
16 Plan and Scheduling Order. According to the rule, “[a]ll motions or stipulations to extend
17 a deadline set forth in a discovery plan shall be received by the court no later than twenty-
18 one (21) days before the expiration of the subject deadline.”

vii.

FORMAT OF DISCOVERY

21 Pursuant to the electronic discovery amendments to the Federal Rules of Civil
22 Procedure effective December 1, 2006, the undersigned parties addressed the e-
23 discovery issues pertaining to the format of discovery at the FRCP 26(f) conference. The
24 parties agree that to the extent electronic discovery is requested or produced, such
25 discovery shall be carried out in accordance with the procedures set forth in FRCP 34(b)
26 and 26(b).

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VIII.

DISCOVERY DISPUTES

3 All discovery disputes in this case shall be governed by the provisions of Local
4 Rule 26-6. The parties agree to employ good faith efforts to resolve all discovery
5 disputes prior to seeking intervention by the Court.

IX.

PRESENTATION OF ELECTRONIC EVIDENCE TO A JURY

8 The parties certify that they communicated whether they intend to present
9 evidence in electronic format to jurors for the purpose of jury deliberations. At this time,
10 the parties have not made any stipulations regarding providing discovery in an electronic
11 format compatible with the Court's electronic jury evidence display system.

13 | Respectfully Submitted by:

Respectfully Submitted by:

14 | PAUL PADDA LAW

LEWIS BRISBOIS BISGAARD & SMITH

15 | */s/ Paul S. Padda*

/s/ Josh Cole Aicklen

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20 | Dated: September 7, 2021.

Dated: September 7, 2021.

1 *Wood v. Carl's Jr., et al.*
2 2:20-cv-02329-APG-BNW

3 *Respectfully Submitted by:*

4 **ALVERSON TAYLOR & SANDERS**

5 */s/ Karie N. Wilson*

6

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14 Restaurant Holdings, Inc.*

15 Dated: September 7, 2021.

16 *Respectfully Submitted by:*

17 **GORDON REES SCULLY
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19 */s/ Rachel L. Wise*

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28 Dated: September 7, 2021.

21 **Order**

22 IT IS ORDERED that ECF No. 54 is
23 GRANTED. The parties are advised,
24 however, that the Court does not
25 intend to grant additional discovery
26 extensions.

27 **IT IS SO ORDERED**

28 **DATED:** 9:36 am, September 08, 2021



29 **BRENDA WEKSLER
30 UNITED STATES MAGISTRATE JUDGE**